

Chapter 14.78 Shoreline Development Permits.

14.78.010	Purpose.
14.78.020	1974 Shoreline management master program map.
14.78.030	Scope.
14.78.040	Definitions.
14.78.050	Exemptions.
14.78.060	Letter of exemption.
14.78.070	Nonconforming use and development standards.
14.78.080	Revisions to permits.
14.78.090	Notice required.
14.78.100	Duration of approval.
14.78.110	Review criteria for all developments.
14.78.120	Review criteria for substantial development permits.
14.78.130	Review criteria for conditional use permits.
14.78.140	Review criteria for variance permits.
14.78.150	Special procedures for limited utility extensions.
14.78.160	Filing with Department of Ecology.
14.78.170	Permit procedures.
14.78.180	Permits for substantial development, conditional use, or variance.
14.78.190	Department of Ecology review of conditional use and variance permits.
14.78.200	Minimum standards for conditional use and variance permits.
14.78.210	Requests for review.

14.78.010 Purpose.

The purpose of this section is to implement the Shoreline Management Act of 1971, as amended, Chapter 90.58 RCW and to regulate substantial development within specified areas of the Snoqualmie River and their associated shorelands. Also, as stated in the Land Use Element of the 2004 City of Duvall Comprehensive Plan, the City shall implement the Shoreline Master Program in a manner to foster economic growth but discourage development in areas that might be hazardous or diminish valuable shoreline access points and in a way that preserves and restores all natural resource systems while allowing for increased public access to the Snoqualmie River. It is also the purpose of this section to comply with the goals and policies of the City of Duvall 1974 Shoreline Master Program.

14.78.020 1974 Shoreline management master program map.

The locations and boundaries of the Conservancy and Urban environments on the shorelines of the City of Duvall are shown on Figure LU – 6 in the Land Use Element of the 2004 City of Duvall Comprehensive Plan entitled “1974 Shoreline Management Master Program Map.” The map and all the references and amendments officially adopted thereon are incorporated as part of this chapter.

14.78.030 Scope.

A substantial shoreline development permit is required for development if it materially interferes with the normal public use of the water or shorelines of the City or exceeds a total cost or fair market value of \$2,500 and is located within the following areas:

- A. The Conservancy Environment, which includes the Snoqualmie River, 200 feet on either side of the tops of the banks and their associated shorelands

- B. The Urban Environment, which is that area along the east bank of the Snoqualmie River within 200 feet on either side of the tops of the bank and their associated shorelands, from just north of the Depot Park building to the Woodinville-Duvall bridge.

14.78.040 Definitions.

The City of Duvall adopts WAC 173-27-030, as now existing or hereinafter amended, by reference.

14.78.050 Exemptions.

The City of Duvall adopts WAC 173-27-040, as now existing or hereinafter amended, by reference.

14.78.060 Letter of exemption.

The City of Duvall adopts WAC 173-27-050 as now existing or hereinafter amended, by reference.

14.78.070 Nonconforming use and development standards.

The City of Duvall adopts WAC 173-27-080 as now existing or hereinafter amended, by reference.

14.78.080 Revisions to permits.

The City of Duvall adopts WAC 173-27-100 as now existing or hereinafter amended, by reference.

14.78.090 Notice required.

The City of Duvall shall provide for notice in compliance with DMC 14.08, Permit Processing.

14.78.100 Duration of approval.

- A. Construction or substantial progress toward construction of a project for which a permit has been granted pursuant to this chapter must be undertaken within two years after permit approval. If progress has not been made, a new permit application will be required.
- B. If a project for which a permit has been granted has not been completed within 2 years after permit approval, the Director shall, at the expiration of the 2 year period, review the permit and, upon a showing of good cause, either extend the permit for up to 1 year, or terminate the permit, provided that no permit shall be extended unless the applicant has requested such review and extensions prior to the permit expiration date.
- C. In granting or extending a permit, the decision maker may attach thereto such conditions, modifications and restrictions regarding the location, character and other features of the proposed development as they find necessary to make the permit compatible with the criteria set forth in this code. Such conditions may include the requirement to post a performance bond assuring compliance with other permit requirements, terms and conditions.

14.78.110 Review criteria for all developments.

The City of Duvall adopts WAC 173-27-140, as now existing or hereinafter amended, by reference, for all development on shorelines of the state.

- A. No authorization to undertake use or development on shorelines of the state shall be granted by the local government unless upon review the use or development is determined to be consistent with the policy and provisions of the Shoreline Management Act and the master program.

- B. No permit shall be issued for any new or expanded building or structure more than 35 feet above average grade level on shorelines of the state that will obstruct the view of a substantial number of residences on areas adjoining such shorelines except where a master program does not prohibit the same and then only when overriding considerations of the public interest will be served.

14.78.120 Review criteria for substantial development permits.

Shoreline substantial development permit applications shall be reviewed pursuant to WAC 173-27-150. In addition, all projects must be consistent with the Land Use Element of the 2004 City of Duvall Comprehensive Plan, Goal LU – 13, and its related policies.

- A. A substantial development permit shall be granted only when the development proposed is consistent with:
 - 1. The policies and procedures of the act;
 - 2. The provisions of this regulation; and
 - 3. The City of Duvall Shoreline Master Program. Provided, that where no master program has been approved for an area, the development shall be reviewed for consistency with the provisions of chapter 173-26 WAC, and to the extent feasible, any draft or approved master program which can be reasonably ascertained as representing the policy of the local government.
 - 4. Development and/or redevelopment within the Urban Environment designation shall be allowed in accordance with the allowed and conditional uses set out in DMC 14.24, Riverside Village zoning district, and other provisions of this Title. Such development should, to the greatest extent possible, be permitted to develop up to the 10 foot trail buffer.
- B. The City of Duvall may attach conditions to the approval of permits as necessary to assure consistency of the project with the Shoreline Management Act and the City of Duvall Shoreline Master Program.

14.78.130 Review criteria for conditional use permits.

The purpose of a conditional use permit is to provide a system within the City of Duvall Shoreline Master Program, which allows flexibility in the application of use regulations in a manner consistent with the policies of RCW 90.58.020. In authorizing a conditional use, special conditions may be attached to the permit by local government or the department to prevent undesirable effects of the proposed use and/or to assure consistency of the project with the act and the City of Duvall Shoreline Management Program.

- A. Uses which are classified or set forth in the applicable City of Duvall Shoreline Master Program as conditional uses may be authorized provided that the applicant demonstrates all of the following:
 - 1. That the proposed use is consistent with the policies of RCW 90.58.020 and the City of Duvall Shoreline Master Program;
 - 2. That the proposed use will not interfere with the normal public use of public shorelines;
 - 3. That the proposed use of the site and design of the project is compatible with other authorized uses within the area and with uses planned for the area under the Duvall Comprehensive Plan and City of Duvall Shoreline Master Program;
 - 4. That the proposed use will cause no significant adverse effects to the shoreline environment in which it is to be located; and
 - 5. That the public interest suffers no substantial detrimental effect.
- B. In the granting of all conditional use permits, consideration shall be given to the cumulative impact of additional requests for like actions in the area. For example, if conditional use permits were granted for other developments in the area where similar

circumstances exist, the total of the conditional uses shall also remain consistent with the policies of RCW 90.58.020 and shall not produce substantial adverse effects to the shoreline environment.

- C. Other uses which are not classified or set forth in the City of Duvall Shoreline Master Program may be authorized as conditional uses provided the applicant can demonstrate consistency with the requirements of this section and the requirements for conditional uses contained in the master program.
- D. Uses which are specifically prohibited by the City of Duvall Shoreline Master Program may not be authorized pursuant to either subsection (1) or (2) of this section.

14.78.140 Review criteria for variance permits.

- A. The purpose of a variance permit is strictly limited to granting relief from specific bulk, dimensional or performance standards set forth in the applicable master program where there are extraordinary circumstances relating to the physical character or configuration of property such that the strict implementation of the master program will impose unnecessary hardships on the applicant.
- B. Relief may be granted from specific provisions of the Shoreline Master Program or shoreline use regulations, provided the applicant can demonstrate that the variance will meet the criteria outlined in WAC 173-27-170 and the applicant shall demonstrate all of the following are met:
 - 1. That practical difficulties or unnecessary hardship result from the strict application of the requirements of this chapter to the applicant's property.
 - 2. That the hardship alleged is peculiar to the applicant's property and not applicable to other lands in the vicinity.
 - 3. That the hardship alleged does not result from the actions or negligence of the applicant.
 - 4. That strict application of the provisions of this chapter would deprive the applicant rights commonly enjoyed by other properties similarly situated in the vicinity.
 - 5. That the applicant cannot make any reasonable use of his property if strict compliance with the provisions of this chapter are required. The fact that the property may be utilized more profitably if a variance is granted shall not be an element of consideration before the policy.
 - 6. That the granting of the variance will be in harmony with the general purpose and intent of this chapter.
 - 7. That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity. If more harm will be done to the area by granting the variance than would be done to the applicant by denying it, the variance will be denied.

14.78.150 Special procedures for limited utility extensions.

The City of Duvall adopts WAC 173-27-120, as now existing or hereinafter amended, by reference.

14.78.160 Filing with Department of Ecology.

- A. All applications for a permit or a permit revision shall be submitted to the Department of Ecology upon a final decision by local government. Final decision by local government shall mean the order or ruling, whether it be an approval or denial, which is established after all local administrative appeals related to the permit have concluded or the opportunity to initiate such appeals have lapsed.
- B. When a substantial development permit and a conditional use or variance permit are required for a development, the submittal on the permits shall be made concurrently.

- C. A complete submittal shall consist of the following documents and information:
 - 1. A copy of the complete application pursuant to WAC 173-27-180;
 - 2. Findings and conclusions that establish the basis for the decision including but not limited to identification of shoreline environment designation, applicable City of Duvall Shoreline Master Program policies and regulations and the consistency of the project with appropriate review criteria for the type of permit(s) as established in WAC 173-27-140 through 173-27-170;
 - 3. The final decision of the local government;
 - 4. The permit data sheet required by WAC 173-27-190; and
 - 5. Where applicable, the City shall also file the applicable documents required by chapter 43.21C RCW, the State Environmental Policy Act, or in lieu thereof, a statement summarizing the actions and dates of such actions taken under chapter 43.21C RCW.
- D. When the project has been modified in the course of the local review process, plans or text shall be provided to the Department of Ecology that clearly indicate the final approved plan.
- E. Submittal of substantial development permits, conditional use permits, variances, rescissions and revisions is complete when all of the documents required pursuant to subsections DMC 14.78.160.C and D have been received by the Department of Ecology. If the Department of Ecology determines that the submittal does not contain all of the documents and information required by this section, the Department of Ecology will identify the deficiencies and so notify the City and the applicant in writing. The submittal and permit are void unless and until the material requested in writing is submitted to the department.
- F. "Date of filing" of the City's final decision involving approval or denial of a substantial development permit, or involving a denial of a variance or conditional use permit, is the date of actual receipt of a complete submittal by the Department of Ecology.
- G. "Date of filing" of a permit for a conditional use or variance approved by the City, and such permits which also involve concurrent submittal by the City of a substantial development permit, is the date of transmittal of the Department of Ecology's final decision on the variance or conditional use permit to local government and the applicant.
- H. The Department of Ecology shall provide a written notice to the city and the applicant of the "date of filing."
- I. When a permit has been appealed pursuant to RCW 90.58.180, upon conclusion of all review proceedings, a copy of the final order shall be provided to the City and the Department of Ecology. When the project has been modified in the course of the review proceeding, plans or text shall be provided to the City, consistent with the provisions of WAC 173-27-180, that clearly indicate the final approved plan and the City shall reissue the permit accordingly and submit a copy of the reissued permit and supporting documents to the Department of Ecology for completion of the file on the permit. The purpose of this provision is to assure that the local and Department of Ecology files on the permit are complete and accurate and not to provide a new opportunity for appeal of the permit.

14.78.170 Permit procedures.

- A. Applications for shoreline substantial development permits, shoreline conditional use permits, and shoreline variance permits shall follow the procedures for a Type III permit review pursuant to DMC 14.08, Permit Processing.
- B. Applications shall also follow the notice of application procedures pursuant to DMC 14.08.020.

14.78.180 Permits for substantial development, conditional use, or variance.

- A. Each permit for a substantial development, conditional use or variance issued by the City shall contain a provision that construction pursuant to the permit shall not begin and is not authorized until 21 days from the date of filing as defined in RCW 90.58.140(6) and WAC 173-27-130, or until all review proceedings initiated within 21 days from the date of such filing have been terminated; except as provided in RCW 90.58.140 (5)(a) and (b).
- B. Permits for substantial development, conditional use, or variance may be in any form prescribed and used by the City including a combined permit application form. Such forms will be supplied by the City.

14.78.190 Department of Ecology review of conditional use and variance permits.

The City of Duvall adopts WAC 173-27-200, as now existing or hereinafter amended, by reference.

14.78.200 Minimum standards for conditional use and variance permits.

Pursuant to RCW 90.58.100(5) and 90.58.140(3), the criteria contained in WAC 173-27-170 and 173-27-170 for shoreline conditional use and variance permits shall constitute the minimum criteria for review of these permits by local government and the department. Local government and the department may, in addition, apply the more restrictive criteria where they exist in approved and adopted master programs.

14.78.210 Requests for review.

All requests for review of any final permit decisions under chapter 90.58 RCW and chapter 173-27 WAC are governed by the procedures established in RCW 90.58.180 and chapter 461-08 WAC, the rules of practice and procedure of the shorelines hearings board.